IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

WRIT PETITION NO : 10423 of 1995

Between:

The Management of B.L.V., Hatcherias (P) Ltd.,

represented by it's Managing Director,
1-1-169/a, Sudershan Theatre Complex,
R.T.C.'X' Roads, Hyderabad.

..... PETITIONER

AND

1 The Authority Urban M.W.Act, Cum Asstistant

Commissioner of Labour R.R.Dist., I,
Anjaiah Karmika Bhavan, R.T.C.'X' Roads,
Hyderabad.

2 P.Chennakrishna, C/o. B.M.S. Office,
1-8-565/5, R.T.C.'X' Roads,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a direction particularly one in the nature of Certiorari , questioning the order dt.21.3.1994 in M.W.No.60/92 after calling for the records on the file of the 1st respondent authority under M.W.Act. R.R.Dist.-I, Hyderabad.

Counsel for the Petitioner: MR.B.G.RAVINDRA REDDY

Counsel for the Respondents : G.P. for Labour

The Court made the following :

O R D E R:

This Writ Petition is filed against the Order in M.W.No.60 of 1992, dated 21-03-1994, passed by the first respondent authority under Payment of Minimum Wages Act, 1948, Ranga Reddy District and (Assistant Commissioner of Labour, Ranga Reddy District Circle-II) in M.W.No.60/92, dated 21-03-1994.

2. It is the case of the petitioner that the workman had already filed a claim under the Payment of Wages Act in P.W.No.28 of 1992 for the period of June and July 1991 claiming the differential minimum wages and the said Authority has allowed the claim for Rs.42,640/- and that became final. Ignoring that claim ordered by the Authority under the Payment of Wages Act, the Workman again filed an application under Minimum Wages Act claiming difference of wages and also the penalty for the very same period. The Authority allowed the claim for Rs.78,890/-, two times compensation. Against the said Order, the present Writ Petition has been filed.

3. The learned counsel for the Management submits that when the petitioner had already approached the authority under Payment of Wages Act, they are precluded again under Minimum Wages Act claiming the difference for the very same period. Therefore, the order is illegal and without jurisdiction.

4. The learned counsel also further submits that when an application was made under Minimum Wages Act, which was barred by Limitation and even though the application to condone delay was filed by workman and no application to condone the delay in filing the claim petition was filed. Under those circumstances, the very claim itself is barred by Limitation. These aspects have not been considered by the Tribunal. Therefore, he submits that the order is liable to be set aside.

5. Heard the Learned Government Pleader for Labour.

6. The learned counsel raised two formidable points which are admittedly not considered by the Authority under the Minimum Wages Act. If the claim is barred by time, necessarily an application has to be filed for condoning the delay. Moreover, in the instant case, the difference of minimum wages was already allowed by the Minimum Wages Authority. In such a situation, the second application for Payment of Minimum Wages Act would not arise. This aspect was also not considered by the learned authority.

7 . Under these circumstances, I am of the view that the matter requires re-consideration. Accordingly, the Order of the Authority in M.W.No.60 of 1992 is set aside and the matter is remitted back to the first respondent for fresh consideration. The authority shall issue notice to the parties concerned and pass appropriate orders within four months from the date of receipt of a copy of this order.

8. Accordingly, the Writ Petition is disposed of with the above observation.

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G.BIKSHAPATHY, J

Dated: 30-09-2004

prv/bsb

To

1 The Authority Urban M.W.Act, Cum Asstistant

Commissioner of Labour R.R.Dist., I,
Anjaiah Karmika Bhavan, R.T.C.'X' Roads,
Hyderabad.

2 2CCs to G.P. for Labour, High Court Buildings,

Hyderabad (OUT).

3 2CD copies